

EXHIBIT F

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA, CHARLESTON DIVISION

CASE NUMBER 2:06-CV-1754

FIREMAN'S FUND INSURANCE COMPANY, as
SUBROGEE for LIMEHOUSE & SONS, INC.,
Plaintiffs,

v.

AMERICAN EQUIPMENT CORPORATION, INC., ET AL.,
Defendants.

DEPOSITION OF
DAVID MCCANDLESS

COPY

At Raleigh, North Carolina

Tuesday, April 14, 2009

10:02 a.m.

Reported by: Lindsey D. Cline, CVR



David McCandless

1 A. I looked at it and you can see it in some of my
2 photographs. We did not remove it during the
3 examination.

4 Q. Okay. Was there any physical evidence that you
5 saw indicating that the starter was either the
6 cause or the origin of the fire?

7 A. It's definitely within the area that's damaged.
8 It's only within -- It's less than a foot from the
9 turbocharger, which if we're looking at a scenario
10 of hydraulic hose failure, that's going to be your
11 point of ignition. So it's certainly within the
12 area where the fire started under any of the
13 proposed scenarios that are present here.

14 We had electrical activity immediately
15 adjacent to the starter on the cables. I don't
16 think those were the starting point of the fire.
17 I don't think that that arcing cable was the cause
18 of the fire given the information that we have.

19 Given the information that's been
20 developed regarding the starter and the fact that
21 an improper starter was put on there, that's
22 something I certainly wasn't aware at the time we
23 did the on-scene investigation. And so I can
24 eliminate the arcing, I believe.

David McCandless

1 I don't know categorically that I can
2 eliminate internal failure to the starter and the
3 heat generation associated with that given what we
4 know now.

5 Q. Well, was there anything that you saw that
6 indicated that the starter was the cause --
7 whether it's the right starter or the wrong
8 starter, that the starter was involved in the
9 cause and origin of the fire?

10 A. Well, I mean, we certainly had heat patterns down
11 there. There wasn't something that I observed
12 intrinsically that made me go, "Oh, it's
13 absolutely the starter that caused it." But
14 again, that's -- it's information that I didn't
15 know. I didn't have the background and
16 maintenance information that the starter had even
17 been changed at any time in the recent history
18 prior to the fire.

19 Q. Well, if the starter physically caused the fire,
20 would you expect to see some physical evidence of
21 that that would at least lead you not to conclude
22 that the cause and origin was something else?

23 A. Well, what you can have is you can have the
24 starter -- a failure in the starter that overheats

David McCandless

1 conclusion that the starter had caused the fire.

2 Q. But was there any evidence to you when you had the
3 engine in front of you to look at that the starter
4 caused the fire?

5 A. Again, the starter was damaged and, no, I didn't
6 propose that we disassemble the starter or take
7 the starter off.

8 Q. Well, sir, there's a lot of things that were
9 damaged, right?

10 A. Sure.

11 Q. Okay. Was there -- I'm going to ask you the same
12 question because I don't think you've given me an
13 answer, yes or no, and I believe it's a yes or no
14 question.

15 When you looked at the engine was there
16 any evidence to you that the starter caused the
17 fire?

18 A. There's -- When you say any evidence, there's some
19 evidence that it could have, just in the sense of
20 we have the insulation burned off of the leads
21 directly adjacent to the starter. So to the
22 extent that we have that type damage, yes. I
23 didn't -- it would have been more helpful,
24 certainly, to have the information and history

David McCandless

1 regarding the starter at the time.

2 Q. Well, was the starter available to you for your
3 review?

4 A. Yes, it was.

5 Q. Did anybody tell you not to look at the starter?

6 A. No.

7 Q. Did anybody tell you not to inquire as to
8 maintenance information about the starter?

9 A. Well, no. We asked Earl about any maintenance
10 history, any recent work on the crane, and he told
11 us about some other things that had been changed,
12 an alternator a few months before the fire, but
13 you know, did not mention to me or Bill anything
14 about the starter having been changed.

15 Q. Did you make a conclusion as to the most likely
16 cause and origin of this fire at some point?

17 A. At some point, sure.

18 Q. Okay. And was that conclusion set forth in your
19 report?

20 A. Yes.

21 Q. Okay. Does it remain your opinion -- strike that.
22 Was it your opinion at the time that you issued
23 the report that the most likely cause and origin
24 of the fire was the failed hydraulic hose that you

David McCandless

1 saw?

2 A. Yes.

3 Q. Okay. Does it remain your conclusion that the
4 most likely cause and origin of the fire was the
5 failed hydraulic hose that you saw?

6 A. Most likely, probably so, yes.

7 Q. Okay. Did you see any evidence of a starter
8 failure?

9 A. There is -- there's certainly evidence of heat on
10 the external case of the starter. I mean, we
11 certainly have the leads going to the starter that
12 the insulation is consumed on.

13 Q. So you saw fire damage?

14 A. Well, yes, there's heat damage there.

15 Q. Okay. And -- I'm sorry, I was cutting you off.

16 A. Well, what I'm saying is is that -- that damage is
17 -- the damage we see there is not -- does not
18 uniquely exclude the starter --

19 Q. Okay.

20 A. -- based on the investigation that was done.

21 Q. Because there's -- And I'm just trying to do this
22 so I can understand it. Is it your testimony that
23 because there is heat damage around the starter
24 that you couldn't exclude the starter as the

David McCandless

1 cause? Am I accurately --

2 A. Based on the information we have now, yes.

3 Q. Okay. But based on the information that you had
4 then, this heat damage wouldn't lead you to
5 believe that the starter caused the fire; is that
6 correct?

7 A. On the information we had then, if I'm assuming
8 that this is the correct starter, it's going to
9 have over-crank protection, so there's certain
10 failure modes that are eliminated. When we have
11 the wrong starter on there, you can't necessarily
12 eliminate those failure modes.

13 Q. Okay. But you can determine whether one failure
14 mode is more or less likely than the other,
15 correct?

16 A. Sure, if you're evaluating the evidence, yes.

17 Q. Right. And in this case, you evaluated evidence,
18 correct?

19 A. Yes.

20 Q. And to this day, in your evaluation, the failed
21 hose is the more likely cause of the fire than
22 anything associated with the starter?

23 MR. HORTON: Object to the form.

24 THE WITNESS: More like -- if we're having --

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1 if we have to put percentages on it --

2 Q. (Mr. Caputo) well, we don't have to.

3 A. I don't know that I can put percentages on it. I
4 know that given the information that we have now,
5 the starter is a -- to me, a significant
6 possibility that I cannot exclude.

7 Q. Right, but I'm not asking you to exclude it. I'm
8 asking you based on the evidence you have now, is
9 the failed hose a more likely cause of the fire
10 than anything associated with the starter?

11 MR. HORTON: Object to the form again.

12 THE WITNESS: If a failed hose, yes.

13 Q. (Mr. Caputo) what about this failed hose that you
14 saw?

15 A. well, we also know that we have preexisting leaks,
16 and I don't think you can categorically exclude
17 that the hydraulic fluid out of this hose is the
18 first thing to ignite more so than the potential
19 leak of another hose.

20 Q. well, let's -- That's fine and we can talk about
21 other alleged leaks, but the failed hose that you
22 saw, based on the evidence today, is that hose a
23 more likely cause of the fire than anything
24 associated with the starter?

David McCandless

1 under the cab.

2 Q. Okay.

3 MR. SMITH: Can we go off for two minutes?

4 MR. CAPUTO: Sure.

5 (THEREUPON, A BRIEF RECESS WAS TAKEN --

6 11:21 A.M. to 11:27 A.M.)

7 Q. (Mr. Caputo) At the bottom of page 4 you say
8 that, "Based upon examination and documentation of
9 the vehicle and the review of information and
10 documents regarding the subject loss, the origin
11 area of the fire included the engine compartment
12 of the vehicle chassis as well as the area to the
13 rear of the engine behind the operator's cab."

14 Do you still believe that today?

15 A. Yes.

16 Q. Okay. "The fire occurred due to the separation of
17 the hydraulic hose assembly used to power the
18 cooling fans at the rear of the cab which released
19 pressurized hydraulic fluid into the engine
20 compartment."

21 Do you still believe that today?

22 A. Yes, I mean to the extent we've discussed the
23 other possibilities of ensuing and growing the
24 fire, but, yes, I mean that -- there's no doubt

David McCandless

1 that that's what contributed to the bulk of the
2 fire, was that hydraulic fluid release.

3 Q. So the difference is you just don't know that
4 there was a preexisting fire; is that --

5 A. Essentially, yes. I mean the largest fuel load
6 occurred when that hose separated.

7 Q. Okay. "This fluid subsequently ignited on an
8 elevated temperature surface within the engine
9 compartment."

10 Do you still believe that today?

11 A. Yes, I mean although, again, there is a
12 possibility that if you have a preexisting fire
13 that that can also provide your ignition source of
14 the released fluid.

15 Q. So are you suggesting that there are other
16 possibilities that are not included in here, but
17 you still believe what you have included in here
18 as the cause and origin of the fire?

19 A. Well, the primary information, I think, that's
20 relevant specifically to cause and origin issues
21 is the information on the starter that I did not
22 have and was not aware of, I guess, at the time
23 that I wrote the report.

24 Q. Okay. So you believe the starter could have

David McCandless

1 caused a smaller fire that predated the fire that
2 you discuss in your report, correct?

3 A. Correct.

4 Q. And is there anything else that -- where the
5 starter plays a part in the fire that you discuss
6 in your report? Again, I understand we're talking
7 about possibilities.

8 A. Well, I don't know that I follow the question.

9 Q. All right. Well, let me ask it, then --

10 A. Okay.

11 Q. -- in a marginally better way, at least. Other
12 than the starter having caused a preexisting fire
13 that preexisted the fire that you discuss here in
14 your report, is there any other way the starter
15 issues that you've subsequently learned about
16 change or affect your conclusions that I've just
17 read to you?

18 A. I don't believe so.

19 Q. So unless there was a starter fire or a fire
20 caused by the starter that was already going on,
21 your report would be exactly the same today as it
22 was back in 2007?

23 A. I believe that's accurate, yes.

24 Q. Okay. Is there any reason why you haven't amended

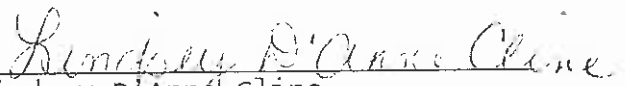
STATE OF NORTH CAROLINA
COUNTY OF WAKE

C E R T I F I C A T E

I, Lindsey D'Anne Cline, Court Reporter and Notary Public, the officer before whom the foregoing proceeding was conducted, do hereby certify that the witness(es) whose testimony appears in the foregoing proceeding were duly sworn by me; that the testimony of said witness(es) were taken by me to the best of my ability and thereafter transcribed under my supervision; and that the foregoing pages, inclusive, constitute a true and accurate transcription of the testimony of the witness(s).

I do further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in which this proceeding was conducted, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereof, nor financially or otherwise interested in the outcome of the action.

This the 16th day of April, 2009.


Lindsey D'Anne Cline
Notary Public No. 20002130221